

EXHIBIT 2

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN CAMERAS, CAMERA
SYSTEMS, AND ACCESSORIES USED
THEREWITH**

Inv. No. 337-TA-1400

ORDER NO. 19: REGARDING NON-PARTY CORRESPONDENCE

(December 23, 2024)

On December 23, 2024, counsel for non-parties Samsung Electronics America, Inc. and Samsung Electronics Co., Ltd. submitted to my office a letter concerning a scheduling conflict involving complainant GoPro, Inc.'s technical expert, Dr. Dan Schonfeld, the present investigation, and litigation in the Eastern District of Texas (attached as Exhibit A). GoPro and respondents Arashi Vision Inc. d/b/a Insta360 and Arashi Vision (U.S.) LLC d/b/a Insta360 (Insta360) are hereby directed to consider possible solutions for this conflict, including adjustment of the evidentiary hearing dates and/or remote testimony by Dr. Schonfeld. GoPro and Insta360 shall meet and confer as best as possible and file their respective positions on possible solutions no later than COB Thursday December 26, 2024.

SO ORDERED.


Doris Johnson Hines
Administrative Law Judge

EXHIBIT A

FISH.

Ruffin B. Cordell
Principal
cordell@fr.com
T: 202 626 6449

VIA EMAIL

December 23, 2024

The Honorable Doris Johnson Hines
Administrative Law Judge
U.S. International Trade Commission
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Re: Certain Cameras, Camera Systems, And Accessories Used Therewith, Inv. No. 337-TA-1400

Dear Judge Hines,

Fish & Richardson represents Samsung Electronics America, Inc. and Samsung Electronics Co., Ltd. (collectively “Samsung”) in a matter pending in the United States District Court for the Eastern District of Texas, captioned *Headwater Research LLC v. Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc.*, Case No. 2:24-CV-00228-JRG-RSP (the “Samsung EDTX Litigation”). I write regarding a scheduling conflict for an expert expected to testify in both the Samsung EDTX Litigation and ITC Investigation No. 337-TA-1400 (the “1400 Investigation”) before Your Honor. The conflict arises because both trials are set for January 13-17, 2025. Today, Chief Judge Rodney Gilstrap, who presides over the Samsung EDTX Litigation, ordered Samsung to contact the ITC to request an accommodation and/or rescheduling of the hearing in the 1400 Investigation in order to resolve the above-described conflict. He further ordered that we report back as soon as possible on this issue.

We have communicated with both Complainant and Respondent in the 1400 Investigation, and both oppose an accommodation and/or rescheduling, per the attached emails. We are available to further discuss this issue as needed, but respectfully request a prompt response given the short time before these trial dates and the EDTX Court’s direction that we report back expeditiously.

The specific conflict-at-issue concerns technical expert Dr. Dan Schonfeld, who is an expert for Complainant GoPro, Inc. (“GoPro”) in the 1400 Investigation and is also Samsung’s sole

FISH.

December 23, 2024

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technical expert in the Samsung EDTX Litigation. We understand Dr. Schonfeld is scheduled to testify for GoPro during both Complainant's case-in-chief, and its rebuttal case in the 1400 Investigation during the week of January 13-17. We further understand Dr. Schonfeld's ITC testimony will concern multiple issues, including infringement, technical domestic industry, and validity with respect to multiple asserted patents. Dr. Schonfeld is also scheduled to testify on behalf of Samsung during the Samsung EDTX trial, which is also currently set for the week of January 13th. Dr. Schonfeld will testify in the Samsung EDTX Litigation on issues of non-infringement and invalidity.

Samsung attempted to resolve this scheduling conflict as soon as it became apparent by filing a motion for continuance in the Samsung EDTX Litigation. Specifically, on Friday, December 13th, Samsung received a notification from the EDTX Court that the Samsung EDTX Litigation would be set for trial first in the order of trials to start on January 13th, 2025. On the following day, Samsung informed opposing counsel of Dr. Schonfeld's conflict. Two days later, on Monday December 16, the parties informed the EDTX Court of the conflict during an in-person hearing. Pursuant to the EDTX Court's guidance, on December 18, 2024, Samsung and Plaintiff Headwater filed a Joint Motion for Continuance of the Samsung EDTX Litigation trial in light of Dr. Schonfeld's conflict. The EDTX Court set a hearing on that motion, which occurred this morning (December 23) at 11:00 a.m. ET.

During the hearing on Samsung's Motion for Continuance, Chief Judge Gilstrap ordered Samsung to contact the ITC to inquire as to whether a schedule change or accommodation could be made in the 1400 Investigation that would allow Dr. Schonfeld to testify as currently scheduled in the Samsung EDTX Litigation. As such, Samsung respectfully inquires as to whether the hearing date in the 1400 Investigation can be changed, or alternatively, a scheduling adjustment can be made to accommodate Dr. Schonfeld's conflict, for example, by providing space in the middle of 1400 Investigation's hearing such that Dr. Schonfeld could travel to the Eastern District of Texas to testify. Dr. Schonfeld's testimony in the Samsung EDTX Litigation will span 1-2 days depending on the time at which he takes the stand. We can make reasonable efforts to schedule Dr. Schonfeld's appearance in the Samsung EDTX Litigation trial, and we anticipate that he will be called Wednesday or Thursday of that trial week (January 15 or 16).

We contacted counsel for Complainant and Respondent in the 1400 Investigation. As noted above, both parties indicated that each opposes this request. *See* Exs. A and B.

We kindly ask that this request be addressed expeditiously, as Samsung is required to inform the EDTX Court of the outcome of our request as soon as possible. As always, we appreciate your consideration.

Best regards,

Ruffin B. Cordell

EXHIBIT A

From: Sean Pak <seanpak@quinnemanuel.com>
Sent: Monday, December 23, 2024 1:26 PM
To: Ruffin Cordell; QE-GoPro-Arashi Vision; lanceyang@quinnemanuel.com; MoFo_Insta360-ITC_Service@mofo.com; mwhitaker@mofo.com; gbusey@mofo.com
Cc: Michael McKeon; Thad Kodish; Benjamin K. Thompson; melissa@gillamsmithlaw.com; mafenster@raklaw.com; rmirzaie@raklaw.com; andrea@millerfairhenry.com
Subject: Re: Conflict between 337-TA-1400 and Headwater Research, LLC v. Samsung Electronics, Inc. et al, 2:22-cv-422

[This email originated outside of F&R.]

Ruffin—

We are counsel to GoPro, Inc. in the ITC investigation: In re Certain Cameras, Camera Systems, and Accessories Used Therewith, No. 337-TA-1400. The respondents are Arashi Vision Inc. and Arashi Vision (U.S.) LLC (together, d/b/a Insta360), represented by Morrison Foerster. The complaint was filed on March 29, and the investigation was instituted on May 1. The matter has been set for a January 13 – January 17 evidentiary hearing since June 3. There is also a parallel district court case in the Central District of California (GoPro, Inc. v. Arashi Vision Inc., et al., Case No. 8:24-cv-00681), which has been stayed pending resolution of the ITC investigation.

Dr. Dan Schonfeld has been GoPro's retained expert on infringement and validity issues for 3 of the 6 patents at issue in the ITC investigation. Dr. Schonfeld is expected to testify on infringement issues during GoPro's case-in-chief on either Monday or Tuesday (January 13-14). Dr. Schonfeld is further expected to testify on validity issues in GoPro's rebuttal case on either Thursday or Friday (January 16-17). Dr. Schonfeld has spent considerable time, at great expense to GoPro, preparing for his testimony in the ITC investigation. Given the dates of Dr. Schonfeld's expected testimony, we do not believe it would be feasible to have him travel back and forth between Marshall, Texas during the week of January 13.

We have received your request to consider a continuance of the evidentiary hearing in the ITC investigation. Although it is our desire to accommodate requests from Judge Gilstrap wherever possible, in this instance we must unfortunately object. The current ITC investigation involves serious competitive harm to GoPro, and we have been working diligently for months towards the January 13 evidentiary hearing. If the evidentiary hearing were postponed, it is unclear how quickly it could be rescheduled. Any significant delay would be prejudicial to the competitive position of GoPro. Additionally, GoPro has expended tens of thousands of dollars in booking witness travel and non-refundable hotel room space in Washington, D.C. for the January 13 trial date. Any delay to the currently schedule evidentiary hearing would have financial consequences on GoPro (and, we assume, Insta360 as well).

Best,
Sean

Sean Pak
Co-Chair of National IP Litigation Practice
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From: Ruffin Cordell <RBC@fr.com>

Sent: Monday, December 23, 2024 9:22:50 AM

To: QE-GoPro-Arashi Vision <qe-gopro-arashivision@quinnemanuel.com>; Sean Pak <seanpak@quinnemanuel.com>; Lance Yang <lanceyang@quinnemanuel.com>; MoFo_Insta360-ITC_Service@mofo.com <MoFo_Insta360-ITC_Service@mofo.com>; mwhitaker@mofo.com <mwhitaker@mofo.com>; gbusey@mofo.com <gbusey@mofo.com>

Cc: Michael McKeon <McKeon@fr.com>; Thad Kodish <TKodish@fr.com>; Benjamin K. Thompson <BThompson@fr.com>; melissa@gillamsmithlaw.com <melissa@gillamsmithlaw.com>; mafenster@raklaw.com <mafenster@raklaw.com>; rmirzaie@raklaw.com <rmirzaie@raklaw.com>; andrea@millerfairhenry.com <andrea@millerfairhenry.com>

Subject: Conflict between 337-TA-1400 and Headwater Research, LLC v. Samsung Electronics, Inc. et al, 2:22-cv-422

[EXTERNAL EMAIL from rbc@fr.com]

Counsel,

We are writing with respect to an important development this morning that bears on your case, ITC investigation 337-TA-1400, set for trial on the week of January 13 through 17, 2025. The issue is that Dr. Daniel Schonfeld is the sole technical expert for Samsung Electronics in a case pending before the United States District Court for the Eastern District of Texas (Headwater Research, LLC v. Samsung Electronics, Inc. et al, 2:22-cv-422) that has now been set for trial that same week. Dr. Schonfeld is also scheduled to testify in your 1400 investigation on behalf of the Complainant as to infringement and validity issues.

We just concluded a telephonic hearing before Judge Rodney Gilstrap of the Eastern District. Judge Gilstrap ordered Samsung to raise this conflict with Administrative Law Judge Hines, and request that the ITC move the date of the hearing in the 1400 investigation, or otherwise accommodate this conflict by providing space in the middle of that ITC trial for Dr. Schonfeld to travel to the Eastern District of Texas to testify. Dr. Schonfeld's testimony in the Texas case will span 1-2 days depending upon the time at which he takes the stand. We can reasonably schedule Dr. Schonfeld's appearance in the Eastern District trial, but we anticipate that he will be called Wednesday or Thursday of that trial week (January 15 or 16).

Our plan is to submit a letter request on behalf of Samsung to ALJ Hines' office this afternoon asking to continue the 1400 hearing, or otherwise accommodate this conflict. We request your clients' respective positions on this relief sought by Samsung so that we can provide ALJ Hines with the same in our letter.

Regards,

Ruffin Cordell

Ruffin Cordell :: Principal

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EXHIBIT B

From: Whitaker, Mark L. <MWhitaker@mofo.com>

Sent: Monday, December 23, 2024 1:15:33 PM

To: Ruffin Cordell <RBC@fr.com>; Busey, G. Brian <GBusey@mofo.com>

Cc: Li, Lily <YLi@mofo.com>

Subject: RE: Conflict between 337-TA-1400 and Headwater Research, LLC v. Samsung Electronics, Inc. et al, 2:22-cv-422

Hi Ruffin,

Thank you for your email. I hope this finds you doing well. As you can imagine, our ultimate position is not different than that of counsel for GoPro. As you know as a veteran of ITC investigations, the evidentiary hearing was scheduled several months ago and our team has worked diligently to prepare for it. We have Chinese nationals who have secured visas to travel to the US and have confirmed flights and non-refundable hotel arrangements to prepare for and participate in the hearing. Given the potential impact of the case on our client's products, the extraordinary expenses already incurred as well as those that would flow from any delay, and the lack of clarity as to when a hearing could be rescheduled following a continuance, we would oppose any motion to continue the currently scheduled hearing.

Best,
Mark

MARK L. WHITAKER

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